

¹ Capitalized terms shall have the same meaning as set forth in the accompanying Statement of Undisputed Material Facts.

Administrative Record filed with the Court, and the Committee's determination can only be deemed arbitrary and capricious if it is downright unreasonable.

4. The Administrative Record establishes that the Committee's decision to deny Plaintiff's claim was grounded in reason, supported by the evidence, and backed by the Plan's terms. As such, it was reasonable and not arbitrary or capricious, and the Company is entitled to judgment as a matter of law on Plaintiff's ERISA claims.

5. In support of this motion, Defendant has filed its Memorandum in Support of Its Motion for Judgment on the Administrative Record as well as Defendant's Local Rule 56.1(a)(3) Statement of Undisputed Material Facts.

WHEREFORE, Defendant Thompson Steel respectfully requests that the Court grant Thompson Steel its motion for judgment on the administrative record, dismiss Plaintiff's complaint in its entirety as a matter of law with prejudice, and award it all other relief as the Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2009, I electronically filed the foregoing document and this certificate with the Clerk of the Court using the ECF system, which will send notification of such filing to counsel of record.

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